

**Filed 3/5/07 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2007 ND 34

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Ania Diaz Gonzales,

Petitioner and Appellee

v.

John Witzke,

Respondent and Appellant

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No. 20060277

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Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Gail H. Hagerty, Judge.

AFFIRMED.

Per Curiam.

Ania Diaz Gonzales, pro se, petitioner and appellee. Submitted on brief.

John Witzke, pro se, respondent and appellant. Submitted on brief.

**Gonzales v. Witzke**

**No. 20060277**

**Per Curiam.**

[¶1] John Witzke appealed from a disorderly conduct restraining order directing him to have no contact with Ania Diaz Gonzales for two years. Witzke argues that the district court erroneously granted the restraining order because his actions did not rise to the level of disorderly conduct, and that he was entitled to have a different judge preside over the restraining order hearing. Witzke's appellate briefs are not confined to a discussion of the order at issue, but rather focus on the various wrongs which Witzke believes have been committed against him. Witzke also makes unsubstantiated accusations against a number of people, several of whom are not parties to this action.

[¶2] We conclude Witzke's appeal is frivolous and completely without merit, and therefore we summarily affirm under N.D.R.App.P. 35.1(a)(1). See Witzke v. City of Bismarck, 2006 ND 160, ¶ 19, 718 N.W.2d 586 (stating that an appeal is frivolous "if it is flagrantly groundless, devoid of merit, or demonstrates persistence in the course of litigation which could be seen as evidence of bad faith"). Because Witzke's appeal is frivolous, we award Gonzales double costs incurred on appeal. See N.D.R.App.P. 38 (providing that this Court may award just damages and single or double costs, including reasonable attorney's fees, if it determines an appeal is frivolous).

[¶3] Gerald W. VandeWalle, C.J.  
Carol Ronning Kapsner  
Mary Muehlen Maring  
Daniel J. Crothers  
Bruce E. Bohlman, S.J.

[¶4] The Honorable Bruce E. Bohlman, S.J., sitting in place of Sandstrom, J., disqualified.